

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education
(Amended After Comments)

702 KAR 7:150. Home or hospital instruction.

RELATES TO: KRS 160.290, 202A.011, 314.011

STATUTORY AUTHORITY: KRS 158.033, 156.070, 156.160, 159.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.033 requires the Kentucky Board of Education to promulgate administrative regulations establishing the components of home or hospital instruction. KRS 156.070 requires the Kentucky Board of Education to establish policy or act on all matters relating to the administrative responsibility of the Department of Education. KRS 156.160 requires the Kentucky Board of Education to promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. KRS 159.030 provides exemptions from compulsory attendance for students whose physical or mental condition prevents or renders inadvisable attendance at school or application to study. This administrative regulation establishes minimum requirements for home or hospital instruction programs.

Section 1. General Provisions.

(1) A local board of education shall establish home or hospital instructional programs for students pursuant to KRS 158.033 and the criteria contained in this administrative regulation.

(2) A local board of education shall establish a local board policy setting forth parameters for the operation of home or hospital instructional programs.

(3) A student referred for home or hospital instruction and not in attendance at school shall not be counted for attendance purposes prior to the date recommended by an eligible health care provider on an approved application or for students with disabilities, the date determined by the Admissions and Release Committee (ARC) as defined in 707 KAR 1:002.

(4) Home or hospital instruction shall be used only for a student for whom there is an expectation of an inability to attend regular school for more than five (5) consecutive school days.

(5) For students with disabilities, the ARC shall be responsible for placement decisions regarding home or hospital instruction in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et. seq and 707 KAR 1:350.

(6) The ARC chairperson shall provide written notice of eligibility and documentation to the local Director of Pupil Personnel (DPP) for purposes of program enrollment using the Notice of Home or Hospital Instruction Placement by Admissions and Release Committee (ARC) Form.

Section 2. Home or Hospital Review Committee.

(1) A local board of education shall establish a Home or Hospital Review Committee (Review Committee). The Review Committee shall accept and review applications to determine student eligibility for home or hospital services.

(2) The Review Committee shall consist of a local director of pupil personnel, a home or hospital teacher, a home or hospital instructional program director, medical or mental health personnel, and may consist of other professionals relevant to the application being reviewed.

(3) The condition of pregnancy shall not be considered a physical or health impairment in and of itself, and the nature and extent of any complication shall be delineated prior to consideration of home or hospital instruction for this condition.

(4) **Except as provided by subsection (5) of this section,** eligibility for home or hospital instruction shall cease, for students placed by the Review Committee[,;] if the student works, plays sports or participates in extracurricular activities.

(5) For students with a 504 plan pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, eligibility for home or hospital instruction shall not cease if the student works, plays sports or participates in extracurricular activities if participation in work, sports or extracurricular activities is consistent with the student's 504 plan.

Section 3. Placement for Students on Home or Hospital Instruction.

(1) Pursuant to its authority established in KRS 160.290, a local board of education shall implement referral and placement procedures in accordance with local board policy for students with temporary conditions, including fractures, surgical recuperation, or other physical, health, or mental conditions.

(2) A student with a recurring condition, which results in periods in which the need for home or hospital instruction is intermittent and the student is able to attend school for short periods, may be exited and reentered on home or hospital instruction, and the following shall apply:

(a) Initial approval by the Review Committee shall be required;

(b) The Review Committee shall review the need for an alternative schedule of services based on verification by the professional statement in the application for home or hospital instruction of the need for intermittent services;

(c) If a health professional who completed the initial application for a student to be served on home or hospital determines the student needs additional time for services, the health professional shall submit a written statement, either mailed or faxed, to the Director of Pupil Personnel, requesting additional time up to two (2) weeks for services and provide a brief explanation for the extension;

(d) The Review Committee shall meet to review this extension and either approve or deny the request for an extension, prior to provision of any extended services;

(e) The Review Committee shall review intermittent placement at least every six (6) months, and at that time a statement from a second professional, shall be required by the Review Committee for continued program eligibility; and

(f) The parent or guardian shall notify the principal or Director of Pupil Personnel prior to the need for school reentry or to exit to home or hospital instruction.

Section 4. Home or Hospital Instruction Operation.

(1) Instructional sessions shall be delivered by a certified teacher. Instructional sessions may be delivered in person, electronically, or telephonically. If the instruction is other than in person, the district shall ensure the instruction is meaningful and require the certified teacher to directly contact the student during instructional sessions.

(2) When a home or hospital instruction teacher is physically present in the home or hospital, a parent, guardian, medical professional, assigned hospital staff member or an adult authorized by the parent or guardian shall be present in the home or hospital room during the time of instruction.

(3) A home or hospital instruction teacher shall complete a visitation and planning schedule on a weekly basis. This schedule shall include specific times for instruction, travel, planning and conferences. A copy of this schedule shall be on file in the central office.

(4) Attendance records and services descriptions shall be maintained and summarized on an annual basis on the Home/Hospital Program Form for submission to the department at the end of each school year.

(5) The school's records of daily attendance and the teacher's monthly attendance reports shall be maintained and summarized on a monthly basis as to home and hospital instruction.

(6) Pursuant to its authority established in KRS 160.290, a local board of education shall develop timelines for determination of continuing student eligibility for home or hospital instruction. The Review Committee shall schedule a review of continued student eligibility for home or hospital instruction at any time based on changes in the student's condition.

(7) A teacher serving students on home instruction shall not exceed a caseload of twelve (12) students. A teacher serving students on hospital instruction shall not exceed a caseload of fifteen (15) students. For a teacher serving a combination of home and hospital students, the caseload maximum shall be determined by the setting in which the majority of his students are served.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Home or Hospital Instruction", June 2021; and

(b) "Notice of Home or Hospital Instruction Placement by Admissions and Release Committee (ARC) Form", June 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, Office of Finance and Operations, 300 Sower Building, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

JASON GLASS, Commissioner

LU YOUNG, Chair

APPROVED BY AGENCY: October 12, 2021

FILED WITH LRC: October 15, 2021 at 11:53 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd G. Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the components of home or hospital instruction as required by KRS 158.033(5).

(b) The necessity of this administrative regulation: KRS 157.270 was repealed and reenacted with changes as KRS 158.033 during the 2020 Session of the General Assembly. It is therefore necessary to change and relocate the regulation within the Kentucky Department of Education's (KDE) range of regulations through repeal and replacement. This regulation replaces and updates 704 KAR 7:120, the former home or hospital regulation, consistent with KRS 158.033.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 158.033 requires the Kentucky Board of Education (KBE) to promulgate administrative regulations to establish the components of home or hospital instruction. This regulation sets forth the components of home or hospital instruction.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation establishes the requirements for school districts to operate home and hospital educational programs.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A.

(b) The necessity of the amendment to this administrative regulation: N/A.

(c) How the amendment conforms to the content of the authorizing statutes: N/A.

(d) How the amendment will assist in the effective administration of the statutes: N/A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local school districts.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: School districts currently provide home or hospital instructional programs for students. KRS 157.270 was repealed and reenacted with changes as KRS 158.033 during the 2020 Session of the General Assembly. This regulation replaces and updates 704 KAR 7:120, the former home or hospital regulation, consistent with KRS 158.033.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new costs to local school districts.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): KRS 157.270 was repealed and reenacted with changes as KRS 158.033 during the 2020 Session of the General Assembly. This regulation replaces and updates 704 KAR 7:120, the former home or hospital regulation, consistent with KRS 158.033.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There are no additional costs associated with this administrative regulation. Total cost of implementation is dependent on the number of students enrolled in home or hospital instruction.

(b) On a continuing basis: There are no additional costs associated with this administrative regulation. Total ongoing cost of implementation is dependent on the number of students enrolled in home or hospital instruction.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: School district general funds. School districts receive additional state support for home or hospital students.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding are necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No direct or indirect fees are associated with the administrative regulation.

(9) TIERING: Is tiering applied? Explain why tiering was or was not used. No tiering is applied. The regulation is applicable to all school districts.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local school districts.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.033.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The regulation will not likely have an impact on expenditures or revenues. School districts currently provide home or hospital instructional programs for students. KRS 157.270 was repealed and reenacted with changes as KRS 158.033 during the 2020 Session of the General Assembly. This regulation replaces and updates 704 KAR 7:120, the former home or hospital regulation, consistent with KRS 158.033.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The regulation will not likely have an impact on expenditures or revenues. School districts currently provide home or hospital instructional programs for students. KRS 157.270 was repealed and reenacted with changes as KRS 158.033 during the 2020 Session of the General Assembly. This regulation replaces and updates 704 KAR 7:120, the former home or hospital regulation, consistent with KRS 158.033.

(c) How much will it cost to administer this program for the first year? There are no new costs to school districts anticipated with this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no new costs to school districts anticipated with this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: School districts receive additional state funding for home or hospital program students. The regulation permits districts to provide educational services to students through electronic and telephonic means where appropriate. This may reduce district expenditures.